

Message Text

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ACTION SCS-03

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FM AMEMBASSY TANANARIVE

TO SECSTATE WASHDC 6202

C O N F I D E N T I A L TANANARIVE 0552

E. O. 11652: GDS

TAGS: CASC, MA, US

SUBJ: W/W REPPAS: FOLLOW-UP WITH MINISTER OF JUSTICE

REF: TANANARIVE 0459

FOR: SCS

BEGIN SUMMARY: I FOLLOWED UP WITH MALAGASY MINISTER JUSTICE ON EARLIER DEMARCHE ABOUT EXPULSION OF REPPAS. HE SAID HEAD OF GOVT GEN RAMANANTSOA'S POSITION IS THAT IT IS "TOO SOON" TO CONSIDER EXPULSION. MINJUSTICE PERSONALLY RECOMMENDS, AS LAWYER, THAT APPEAL ROUTE TO SUPREME COURT BE PURSUED. WE SHALL DISCUSS LATTER AGAIN WITH REPPAS' LAWYER, BUT SEE NO ALTERNATIVE TO THIS COURSE AND TO FURTHER WAITING FOR EXECUTIVE ACTION BY GOMR. END SUMMARY.

1. SINCE MIN JUSTICE ANDRIAN DA HAD TO DECLINE MY DIM ER INVITATION AT LAST MOMENT BEKAUSE OF CABINET MEETING, I TOOK AF/E DIRECTOR COOTE TO CALL ON HIM 23APR IN ORDER HAVE OPPORTUNITY FOLLOW UP ON MY DEMARCHE ABOUT EXPULSION OF REPPAS.

2. MIN SAID HE HAD FULLY DISCUSSED MATTER WITH GEN RAMANANTSOA ALONG LINES OF MY APPROACH TO HIM. HE STATED THAT HE HAD RELAYED TO GEN SPECIFIC ELEMENTS IN US-MALAGASY RELATIONS WHICH I HAD NOTED COULD BE ADVERSELY AFFECTED BY REACTION IN U.S. TO CASE.

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3. GEN, HOWEVER, HAD CONCLUDED IT TOO SOON TO CONSIDER EXPU-

LSION. SINCE APPEAL HAD BEEN MADE TO SUPREME COURT, WOULD BE NECESSARY TO AWAIT THAT DECISION. I ASKED MIN WHETHER HE COULD ESTIMATE HOW LONG APPEAL PROCEDURE WOULD TAKE. HE REPLIED THAT IF REPPAS' LAWYER PURSUED APPEAL DILIGENTLY, SUPREME COURT DECISION COULD BE REACHED IN SIX MONTHS.

4. NOTING THAT LAWYER COULD WITHDRAW APPEAL, I ASKED WHETHER THAT WOULD FACILITATE EXPULSION DECISION. WITHOUT REPLYING DIRECTLY, MIN THEN SAID THAT, SPEAKING AS LAWYER AND NOT FOR GOVT OR AS CABINET MINISTER, HE WOULD ADVISE PURSUIT OF APPEAL ROUTE. (COMMENT: THIS ADVICE PROBABLY PROMPTED BY FACT IT GIVES GOMR MORE TIME IT SEEKING FOR DOMESTIC POLITICAL REASONS BEFORE APPROACHING EXPULSION DECISION, BUT HIS PERSONAL INSISTENCE ON PURSUIT OF APPEAL ROUTE MAY INDICATE THAT, AS LAWYER, HE FEELS THERE WAS ERROR IN APPELLATE COURT DECISION. END COMMENT)

5. FOR OUR INFO, I THEN ASKED WHAT HAPPENS IF SUPREME COURT FINDS ERROR. HE SAID CASE WOULD THEN REVERT TO COURT OF APPEALS, BUT WITH DIFFERENT COMPOSITION OF LATTER FROM PREVIOUS APPELLATE PROCEEDING. NORMALLY, HE SAID, COURT OF APPEALS WOULD ACCEPT SUPREME COURT FINDING OF ERROR, BUT, IF NOT, MATTER COULD THEN GO BACK TO SUPREME COURT. THIS COULD ALSO HAPPEN THIRD TIME, IN WHICH CASE SUPREME COURT DECISION WOULD BE FINAL. I ASKED WHETHER WHEN CASE REVERTS TO COURT OF APPEALS LATTER COULD FURTHER HARDEN SENTENCE. HE SAID THIS COULD POSSIBLY HAPPEN, DEPENDING ON POINT OR POINTS RECONSIDERED, BUT HE SEEMED TO BE SUGGESTING THIS WOULD BE MOST UNUSUAL.

6. COMMENT: WE SHALL DISCUSS CASE AGAIN WITH REPPAS' LAWYER LEBEL IN LIGHT OF ABOVE. AS STATED IN REFTTEL, CONCLUSION WE REACH IS THAT MORE TIME, AT LEAST SEVERAL MONTHS, WILL HAVE TO PASS BEFORE GOMR LIKELY FEEL IT POLITICALLY FEASIBLE TO EXPEL REPPAS. WE ALSO NOTE THAT GOMR POSITION AS EXPRESSED TO US BY ANDRIANADA SIMILAR TO THAT REPORTED TO US BY CHARLES ANDRIANTSITOHAINA AS RESULT HIS APPROACH TO GOVT (PARAS 2 AND 3, TANA'S 507), INCLUDING PASSING ALLUSION OF ANDRIANADA TO BOTH REPPAS AND BACOPOULOS SERVING MORE OF THEIR SENTENCES BEFORE EXECUTIVE ACTION TAKEN.

MENDENHALL

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